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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,893	07/23/2001	Jose Walter		3549

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EXAMINER

BUMGARNER, MELBA N

ART UNIT	PAPER NUMBER
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3732

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/909,893

Applicant(s)

WALTER, JOSE

Examiner

Melba Bumgarner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,7,8,10,11 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,7,8,10,11 and 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: It does not identify the citizenship of each inventor.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claims 3, 4, 7, 8, 10, 11, 15, 16, and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3 the limitation "said broadened areas" lacks sufficient antecedent basis. In claim 7, it is unclear which portion of hinge means is further limited. In claim 10, it is unclear if "two openings with regularly spaced wider and narrower regions" is in addition to "at least one opening with repeating broadened and narrowed regions" in claim 15. In claims 11 and 17, recitation of "the superior surface" lacks sufficient antecedent basis. In claim 16, it is unclear whether "an articulator tray" has two trays or includes two arms and two halves of hinge means, and what is meant by "complimentary". In claim 17, it is unclear which opening is "said opening" and what is meant by "wherein the wherein".

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Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 4, 11, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Callne (5,506,095). Callne discloses an articulator tray 102 having at least one opening 113 with repeating broadened and narrowed regions 114, 116 (column 4 line 39) in the opening, wherein the broadened regions will accept a spine 118. The tray has projections on the ^{top of opening surf} superior surface 111, 112.

5. Claims 4, 7, 8, 15, 16, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cho (5,622,497). Cho discloses an articulator tray 18 having at least one opening 44 with repeating broadened and narrowed regions (column 4 line 47) in the opening, wherein the broadened regions will accept a spine 50. Cho shows at least one opening with regularly spaced wider and narrower regions, two arms 92, 100 attached thereto wherein one arm is attached to first half of a hinge means and second arm attached to a second half of a hinge means, second half of the hinge means on one arm of an identical articulator tray 16 (figure 5). A spine 50 is inserted into the opening. The hinge means allow both horizontal and lateral movement (column 2 line 50). The hinge means is a ball joint 108. Cho shows a method of making a model from an impression comprising on a tray having an opening with repeating broadened and narrowed regions in the opening, placing a spine in the opening, loading stone onto the tray, forcing the

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stone against an impression, allowing the stone to harden (column 5 lines 8-33). Cho shows a method of making a model from an impression comprising loading stone onto a tray 18 having an opening with repeating broadened and narrowed regions in the opening with sealing means at the bottom of the opening 60, allowing stone to partially harden, forcing the stone on the tray against an impression 82, and allowing the stone to harden (column 5 lines 23-33).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho. Cho discloses an articulator tray that shows the limitations as described above; however, Cho does not show indexing pins inserted into the opening. It is held to be an obvious matter of choice to one of ordinary skill in the art to substitute pins for spine in the opening since both the pins and spine function to fix and align sections of the dental model during subsequent remodeling. The specific feature of the insert is not critical to the claimed invention.

8. Claims 10, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cho in view of Zeiser (4,608,016). Cho discloses an articulator tray that shows the limitations as described above; however, Cho does not show two openings. Zeiser teaches a tray having two openings. It would have been an obvious to

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one having ordinary skill in the art at the time the invention was made to modify the tray of Cho to have two openings to orient the model as taught by Zeiser. Zeiser teaches the tray having projections (column 2 line 67).

Response to Arguments

9. Applicant's arguments filed October 31, 2002 have been fully considered but they are not persuasive. The prior art show the features of the articulator tray as described in the claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fine (4,200,981) is cited to show the state of the art with respect to an articulator tray.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melba Bumgarner whose telephone number is 703-305-0740. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on (703) 308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-308-2708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Melba Bumgarner



KEVIN SHAVER 1/10/03
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700